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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RODOLFO RODRIGUEZ,

Defendant.

Case No. 2:20-MJ-108-VCF

**ORDER to Extend Deadlines to
Conduct Preliminary Hearing and
File Indictment (First Request)**

IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A. Trutanich, United States Attorney, and Kimberly M. Frayn, Assistant United States Attorney, counsel for the United States of America, and Dan Winder, Esq., counsel for Defendant RODOLFO RODRIGUEZ, that the Court schedule the preliminary hearing in this case for not earlier than 90 days from the date of the current preliminary hearing, April 27, 2020. This request requires that the Court extend two deadlines: (1) that a preliminary hearing be conducted within 21 days of an out-of-custody defendant's initial appearance, *see* Fed. R. Crim. P. 5.1(c); and (2) that an information or indictment be filed within 30 days of a defendant's arrest, *see* 18 U.S.C. § 3161(b).

This stipulation is entered into for the following reasons:

1 1. The parties need additional time to adequately prepare for the preliminary
2 hearing, which is currently set on April 27, 2020.

3 2. In light of the COVID-19 pandemic, the Centers for Disease Control and
4 Prevention's recommendations,¹ and the District Court's Temporary General Orders,² the
5 parties seek to continue the April 27, 2020, preliminary hearing to a date and time
6 convenient to the Court, but not earlier than 90 days from the date of the current
7 preliminary hearing, in order to promote efficiency and to allow time for planning a hearing
8 that complies with the CDC's recommendations and the District Court's Temporary
9 General Orders.

10 3. Under Federal Rule of Criminal Procedure 5.1(c), the Court must hold the
11 preliminary hearing within a reasonable time, but no later than 21 days after the initial
12 appearance if the defendant is not in custody.

13 4. However, under Rule 5.1(d), "[w]ith the defendant's consent and upon a
14 showing of good cause—taking into account the public interest in the prompt disposition of
15 criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more
16 times"

17 5. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), "[a]ny
18 information or indictment charging an individual with the commission of an offense shall be
19 filed within thirty days from the date on which such individual was arrested or served with a
20 summons in connection with such charges."

23 ¹[https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-
24 response.html](https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html)

² See Temporary General Orders 2020-03 and 2020-05.

1 6. Defendant needs additional time to review the discovery, and adequately
2 prepare for a preliminary hearing.

3 7. Accordingly, the parties jointly request that the Court schedule the
4 preliminary hearing in this case no sooner than 90 days from the current preliminary
5 hearing date of April 27, 2020.

6 8. Defendant also agrees to the extension of the 21-day deadline imposed by
7 Rule 5.1(c) and waives any right to remedies under Rule 5.1(c) or 18 U.S.C. § 3161(b),
8 provided that the information or indictment is filed on or before the date of the rescheduled
9 preliminary hearing ordered pursuant to this stipulation.

10 9. The parties agree to the extension of that filing deadline and to a 90-day
11 continuance of the preliminary hearing date.

12 10. The additional time requested herein is not sought for purposes of delay, but
13 merely to allow the parties sufficient time within which adequately prepare for the
14 preliminary hearing. Additionally, denial of this request for continuance could result in a
15 miscarriage of justice, and the ends of justice served by granting this request, outweigh the
16 best interest of the public and the defendant in a speedy hearing.

17 11. Accordingly, the additional time requested by this stipulation is allowed
18 under Federal Rule of Criminal Procedure 5.1(d).

19 12. In addition, the parties stipulate and agree that the time between today and
20 the preliminary hearing rescheduled as requested herein is excludable in computing the time
21 within which the defendant must be indicted and the trial herein must commence pursuant
22 to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18
23 U.S.C. § 3161(h)(7)(B)(i) and (iv).

1 13. This is the first request for an extension of the deadlines by which to conduct
2 the preliminary hearing and to file an indictment.

3 DATED this 15th day of April, 2020.

4 Respectfully submitted,

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6 NICHOLAS A. TRUTANICH
United States Attorney

7 /s/ Dan Winder, Esq.
8 DAN WINDER
Counsel for Defendant
9 RODOLFO RODRIGUEZ

/s/ Kimberly M. Frayn
KIMBERLY M. FRAYN
Assistant United States Attorney

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RODOLFO RODRIGUEZ,

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Case No. 2:20-MJ-108-VCF

**Order on Stipulation to
Extend Deadlines to Conduct
Preliminary Hearing and
File Indictment**

Based on the stipulation of counsel, good cause appearing, and the best interest of justice being served; the time requested by this stipulation being excludable in computing the time within which the defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), and Federal Rule of Criminal Procedure 5.1, considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):

IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled on April 27, 2020, at the hour of 4:00 p.m., be vacated and continued to July 27, 2020 at the hour of 4:00 pm in Courtroom 4B via video conference, counsel will receive separate invitation.

DATED this 17 day of April, 2020.



HONORABLE CAM FERENBACH
UNITED STATES MAGISTRATE JUDGE